

24-5006
District Court No. **1:20-cv-03010-APM**

IN THE
United States Court of Appeals
for the
District of Columbia Circuit

In re: BRAD GREENSPAN, on behalf of himself and all others similarly situated,
Petitioner,

v.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Respondent,

and

UNITED STATES OF AMERICA, STATE OF ARKANSAS, STATE OF
CALIFORNIA, STATE OF FLORIDA, STATE OF GEORGIA, STATE OF
INDIANA, COMMONWEALTH OF KENTUCKY, STATE OF LOUISIANA,
STATE OF MICHIGAN, STATE OF MISSISSIPPI, STATE OF MISSOURI,
STATE OF MONTANA, STATE OF SOUTH CAROLINA, STATE OF TEXAS,
AND STATE OF WISCONSIN

Plaintiffs,

v.

GOOGLE, LLC.

Defendant.

STATE OF COLORADO, STATE OF NEBRASKA, STATE OF ARIZONA,
STATE OF IOWA, STATE OF NEW YORK, STATE OF NORTH CAROLINA,

STATE OF TENNESSEE, STATE OF UTAH, STATE OF ALASKA, STATE OF
CONNECTICUT, STATE OF DELAWARE, DISTRICT OF COLUMBIA,
TERRITORY OF GUAM, STATE OF HAWAII, STATE OF ILLINOIS, STATE
OF KANSAS, STATE OF MAINE, STATE OF MARYLAND,
COMMONWEALTH OF MASSACHUSETTS, STATE OF MINNESOTA,
STATE OF NEVADA, STATE OF NEW HAMPSHIRE, STATE OF NEW
JERSEY, STATE OF NEW MEXICO, STATE OF NORTH DAKOTA, STATE
OF OHIO, STATE OF OKLAHOMA, STATE OF OREGON,
COMMONWEALTH OF PENNSYLVANIA, COMMONWEALTH OF PUERTO
RICO, STATE OF RHODE ISLAND, STATE OF SOUTH DAKOTA, STATE
OF VERMONT, COMMONWEALTH OF VIRGINIA, STATE OF
WASHINGTON,

Real Parties in Interest.

MOTION TO RE-INSTATE

MOTION TO REINSTATE APPEAL

The FRCP Rule 23 Class appeal was dismissed for lack of prosecution prior to counsel appearing in this Court. Appellant in the above-captioned consolidated appeal moves the Court for reinstatement of the appeal and state to the Court the following: Under FRCP Rule 3c(4)

(4) The notice of appeal encompasses all orders that, for purposes of appeal, merge into the designated judgment or appealable order.

the judgment was that of the court below issued on August 5, 2024. FRCP Rule 3c(7) states:

"(7) An appeal must not be dismissed for informality of form or title of the notice of appeal, ...or for failure to properly designate the judgment if the notice of appeal was filed after entry of the judgment and designates an order that merged into that judgment.

Therefore Appellant had a right to file a "notice of appeal" "filed after entry" of the August 5, 2024 judgment.

FRCP Rule 4(a)(1)(B) states "The notice of appeal may be filed by any party within 60 days after entry of the judgment or order appealed from if one of the parties is the United States which is hte case here. The Circuit Cout failed to cite any statue or law which would eliminate Appellant's right as a party to file an appeal within the 60 day time frame which is October 4, 2024.

FRCP Rule 4(a)(C)(2) states "A notice of appeal filed after the court announces a decision or order—but before the entry of the judgment or order—is

treated as filed on the date of and after the entry." The Circuit Court failed to cite any statute or law which would eliminate or prevent Appellant's right to have its notice of appeal "filed after the court announces a decision or order-but before the entry of the judgment or order" to be "treated as filed on the date of and after the entry".

FRCP 4(a)(B)(ii) further provides Appellant a right to file an appeal

"within the time prescribed by this Rule measured from the entry of the order disposing of the last such remaining motion."

which would be 60 days from August 5, 2024 judgment or October 4, 2024.

Alternatively as grounds for re-instatement the pro se Appellant relied on the docket instructions and was not aware the Court was waiting on the pro se to make a filing before it decided its motion to reconsider. Based upon these circumstances, Appellant respectfully request the Court reinstate the appeal based on excusable neglect or alternatively in the interests of justice. Delay has in no way deprived Appellees of information required to properly frame a response brief.

Further the filing comes within the 60 days allowed for a party to appeal the judgment under FRCP Rule 4. This motion is filed within fourteen (14) days of the dismissal notice. This motion fully re-incorporates Appellant's Statement of Issues, Parties, and other timely related appeal documents included with the Amended Notice of Appeal which this motion seeks to have re-instated as part of the appeal

right which has been validly paid for fully.

Dated: September 27, 2024

Respectfully submitted.

By /s/ Alfred C. Constants III

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SUBMISSION OF CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a), Appellant makes the following certifications:

1. This motion complies with the type-volume limitation of words for motions as it contains 835 words and, thus complies with Fed. R. App. P. 27 and 32.
2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(6), because this brief has been prepared in monospaced typeface using Microsoft Word 2021 in 14 pitch font, Times New Roman Style.

Dated: September 27, 2024

Respectfully submitted.

By /s/ Alfred C. Constants III

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